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Honorable Karen Overstreet  
Chapter 11  
Hearing Location: Seattle, Room 7206  
Hearing Date: Friday, March 18, 2011  
Hearing Time: 9:30 a.m.  
Response Date: Friday, March 11, 2011

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7 UNITED STATES BANKRUPTCY COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 In re:

10 COAST CRANE COMPANY, n/k/a  
11 CC LIQUIDATING COMPANY

12 Debtor.

No. Case No: 10-21229

MOTION FOR ENTRY OF ORDER  
AUTHORIZING STRUCTURED  
DISMISSAL AND GRANTING OTHER  
AND RELATED RELIEF

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14 Coast Crane Company n/k/a CC Liquidating Company (“CC” or the “Debtor”) brings this  
15 Motion for Entry of Order Providing for a Structured Dismissal and Granting Other and Related  
16 Relief (the “Dismissal Motion”). In support of this Dismissal Motion, the Debtor respectfully  
17 represents:

18 1. The Debtor filed a voluntary petition under Chapter 11 of Title 11 of the United  
19 States Code (the “Bankruptcy Code”) on September 22, 2010 (the “Petition Date”). The Debtor is  
20 managing its affairs as a debtor-in-possession, pursuant to §§ 1107 and 1108 of the Bankruptcy  
21 Code.

22 2. On the Petition Date, the Debtor filed a motion for approval of a debtor-in-possession  
23 financing facility (the “DIP Facility”) provided by the prepetition first lien lenders (the “First Lien  
24 Lenders”). By order dated November 5, 2010 (the “DIP Order”) [Dkt. 268] the Court approved the  
25 DIP Facility on a final basis. In the DIP Order, the Court determined that the First Lien Lenders  
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MOTION FOR ENTRY OF ORDER  
AUTHORIZING STRUCTURED  
DISMISSAL - 1

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1 have valid, binding enforceable and perfected first priority liens on substantially all the Debtor's  
2 assets securing the DIP Facility obligations and further determined that the First Lien Lenders have  
3 valid, binding enforceable and perfected priority liens on substantially all the Debtor's assets  
4 securing the prepetition loans.

5 3. The Debtor sought and obtained Court approval to conduct an auction (the "Auction")  
6 and effectuate a sale (the "Sale") of substantially all of the Debtor's assets and business (the  
7 "Assets") pursuant to Bankruptcy Code § 363. *See Dkt id #17, and 152.* Following the Auction, on  
8 November 16, 2010, the Court entered an Order Approving the Sale of Substantially All of the  
9 Debtor's Assets and Business Free and Clear of All Liens, Claims, Interests and Encumbrances (the  
10 "Sale Order") to the purchaser, pursuant to an Asset Purchase Agreement (the "Purchase  
11 Agreement"). *See Dkt id #306.*

12 4. The Sale closed on November 24, 2010 (the "Closing"), netting sale proceeds (the  
13 "Sale Proceeds") to the Debtor of more than \$101 million, which amounts were sufficient to fully  
14 retire the claims of the First Lien Lender, assume and satisfy other secured debt exceeding \$12  
15 million, reduce the junior secured lender's claims by \$7 million, and make distributions to trade  
16 creditors totaling \$1.9 million.

17 5. As authorized by the Sale Order, Sale Proceeds were distributed to secured creditors  
18 in satisfaction of their secured claims against the Debtor. The Purchaser assumed certain secured  
19 debt including \$5.3 million under the Second Lien Credit Facility and approximately \$3.983 million  
20 under a purchasing facility with DeLage Langen. Pursuant to the Sale Order the Purchaser assumed  
21 the obligation to make payments to certain trade creditors (the "2.3(h) Creditors") from a fund  
22 totaling \$1.9 million (the "Trade Creditor Fund"). On or about December 6<sup>th</sup>, 2010, the Debtor  
23 made distributions to Trade Creditors distributing the full amount of Trade Creditor Fund. There are  
24 no remaining unencumbered cash proceeds in the estate which are available for disbursement to  
25 general unsecured creditors.  
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1           6.       The Debtor's only remaining liquid assets are funds carved out of the secured  
2 lender's collateral and the sale proceeds for the benefit of court approved professionals who have  
3 provided services to the estate. Those funds are held in the trust accounts of counsel for the Debtor.  
4 The amounts held in trust are sufficient to retire the accrued and unpaid professional fee  
5 administrative claims. The terms of the Purchase Agreement call for payment of any residual  
6 amounts to the Purchaser after payment of professional fees and expenses of the Seller for winding  
7 up the bankruptcy case. The Debtor intends to retain residual funds for a period of sixty days  
8 following dismissal of the case to pay unanticipated windup costs after which, the residual amounts  
9 will be released to the Purchaser.

10           7.       Concurrently with this Dismissal Motion, counsel for the Debtor, counsel for the  
11 Committee and financial consultants for the estate have filed final fee applications seeking awards of  
12 compensation through March 18, 2011 (the "Final Fee Application Period").

13           8.       The Debtor's believe that they have paid all of their ordinary course administrative  
14 liabilities incurred during the bankruptcy case or such obligations have been assumed by the  
15 Purchaser. All fees payable to the United States Trustee through and including the 4<sup>th</sup> Quarter, 2010  
16 have been paid by the Debtor. The Debtor proposes that all fees payable pursuant to Chapter 123 of  
17 Title 23, United States Code, as determined by the Bankruptcy Court on the Dismissal Date,  
18 including, but not limited to, quarterly fees owed to the Office of the United States Trustee for the 1<sup>st</sup>  
19 quarter, 2011, shall be paid within seven (7) days of the entry of the order of dismissal ("Order of  
20 Dismissal").

21           9.       Pursuant to the Sale Order, the Purchaser acquired and waived all preference claims  
22 against 2.3(h) Creditors. The Debtor and the Committee have analyzed other potential avoidance  
23 action claims and have jointly concluded that there would be no benefit to general unsecured  
24 creditors from the pursuit of additional avoidance actions.  
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10. The Debtors do not have sufficient assets to confirm a Chapter 11 plan and there is not a benefit to creditors from a plan process.

11. As of the filing of this motion, there is a pending contested matter before the Court involving the proposed assumption and assignment of the Manitowoc related executory contracts to the Purchaser. The assumption and assignment motion is presently set for hearing on March 4, 2011. The Debtor has been assured that Manitowoc and the Purchaser will reach an accommodation regarding the assignment motion before the hearing on dismissal of the case. In the event that such an accommodation has not been reached, the Debtor will request that the Court retain jurisdiction regarding those issues.

12. The Debtor anticipates that the Court clerk will mail notice of the dismissal of the case. However, in the event the Court clerk does not mail a notice to all creditors and parties-in-interest advising them of dismissal of the case within thirty (30) days of entry of the Order of Dismissal, the Debtor shall (a) serve a notice of dismissal of the Chapter 11 case and notice of no further distribution (the “Dismissal Notice”), in a form agreed to by the Debtor and Committee, by first class mail, upon (a) counsel to the Committee, (b) the Office of the United States Trustee, (c) all creditors, and (d) all parties-in-interest who have filed a Request for Special Notice in this proceeding.

### III. ARGUMENT

13. Pursuant to Bankruptcy Code Section 1112, “on request of a party in interest, and after notice and a hearing, absent unusual circumstances specifically identified by the court that establish that the requested . . . dismissal is not in the best interests of creditors and the estate, the court shall . . . dismiss a case under this chapter . . . if the movant establishes cause.” A determination of cause is made by the court on a case by case basis. In re Albany Partners Ltd., 749 F.2d 670, 674 (11<sup>th</sup> Cir. 1984). The Court has wide discretion to employ its equitable powers to

1 dismiss a bankruptcy case. In re Preferred Door Co., 990 F.2d 547, 549 (10<sup>th</sup> Cir. 1993); In re  
2 Sullivan Center Plaza 1 Ltd., 935 F. 2d 723, 728 (5<sup>th</sup> Cir. 1991)(whether cause exists “rests in the  
3 sound discretion of the bankruptcy court”).

4 14. On of the enumerated bases for dismissal of a bankruptcy case is where a party in  
5 interest shows that there is an “inability to effectuate a plan of reorganization.” 11 U.S.C. §  
6 1112(b)(4)(M). The Debtor respectfully moves the Court for an order authorizing a structured  
7 dismissal of the Debtor’s case, because formulation of a full-fledged plan of reorganization would  
8 needlessly generate additional administrative expenses for the Debtor, and the Debtor is not able to  
9 effectuate substantial consummation of a plan.

10 15. The Debtor has sold substantially all of its assets and business, the entire business has  
11 been sold and there is no possibility that the Debtor will resume operations. The Debtor has already  
12 distributed all of its available liquid assets to creditors. Thus, following the Court’s ruling upon  
13 allowance of professional administrative expenses, and payment of the approved fees and expenses,  
14 there will be no need for the Debtor to remain in bankruptcy.

15 16. Once the Court determines that cause exists for dismissal of a Chapter 11 case, the  
16 Court must evaluate whether dismissal is in the best interests of the creditors and of the estate. See,  
17 In re Superior Sliding & Window, Inc., 14 F. 3d 240, 243 (4<sup>th</sup> Cir. 1994). The best interests of  
18 creditors test is met where interested parties agree that dismissal is the proper disposition of the case  
19 See, In re Mazzoccone 183 B.R. 402, 411(Bankr. E.D. Pa. 1995). Here the unsecured creditors  
20 committee supports dismissal of the case and the Debtor believes that no other creditor will oppose  
21 dismissal.

#### 22 IV. CONCLUSION

23 For these reasons, the Debtor requests that the Court enter an order in the submitted form  
24 authorizing structured dismissal and granting other and related relief.  
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DATED this 25th day of February, 2011.

K&L GATES LLP

By /s/Michael J. Gearin  
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